

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MELVIN KEITH JONES,
Plaintiff,
v.
BERGELECTRIC, INC., et al.,
Defendants.

No. 2:21-cv-0614-KJM-CKD (PS)

ORDER VACATING HEARING AND
ORDER TO SHOW CAUSE

Plaintiff Keith Jones is proceeding pro se in this action alleging claims under Title VII of the Civil Rights Act of 1964. On April 2, 2021, this case transferred in from the United States District Court for the Northern District of California. On August 27, 2021, defendant Associated Builders and Contractors, Inc. Northern California Chapter Unilateral Apprenticeship Committee (“ABC”), moved to dismiss plaintiff’s claims against defendant ABC pursuant to Rules 4(m) and 12(b) of the Federal Rules of Civil Procedure.


Defendant ABC’s motion was set for a hearing to take place on October 6, 2021. To date, plaintiff has not filed an opposition, or a statement of non-opposition, to the motion to dismiss; nor has he sought an extension of time to do so. Accordingly, the hearing set for October 6, 2021 will be vacated, and, if appropriate, will be reset at a later date. Plaintiff is ordered to show cause, in writing, why plaintiff’s failure to oppose the motion to dismiss should not waive the right to oppose the motion and why plaintiff’s claims against defendant ABC should not be dismissed.

1 Local Rule 230(l) provides, in part: “Failure of the responding party to file an opposition
2 or statement of non-opposition may be deemed a waiver of any opposition to the granting of the
3 motion and my result in the imposition of sanctions.” In the Order Setting Status Conference
4 dated April 5, 2021, a copy of which was served on plaintiff (see ECF No. 30), plaintiff was
5 cautioned that pursuant to Local Rule 230(c), an opposition to the granting of any motion must be
6 filed fourteen days prior to the noticed hearing date. In that same order, plaintiff was cautioned
7 “[n]o party will be entitled to be heard in opposition to a motion at oral arguments if written
8 opposition to the motion has not been timely filed by that party.” Plaintiff was notified that failure
9 to comply with the Federal Rules of Civil Procedure, Local Rules of Practice, or orders of this
10 court could result in dismissal of this action. Despite receiving these admonitions, plaintiff has
11 not filed an opposition or statement of non-opposition to the pending motion to dismiss. If
12 plaintiff no longer wishes to prosecute this case or his claims against defendant ABC, then
13 plaintiff may file a notice of voluntary dismissal pursuant to Federal Rule of Civil Procedure,
14 Rule 41(a)(1), which will result in a recommendation for dismissal.

15 Based on the foregoing, IT IS ORDERED:

- 16 1. The October 6, 2021 hearing on defendant ABC’s motion to dismiss is VACATED;
17 and
- 18 2. Within 14 days from the date of this order, plaintiff shall show cause, in writing, why
19 plaintiff’s failure to oppose defendant ABC’s motion to dismiss should not waive the
20 right to oppose the motion, and shall show cause, in writing, why plaintiff’s claims
21 against defendant ABC should not be dismissed.

22 Dated: September 28, 2021

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24 CAROLYN K. DELANEY
25 UNITED STATES MAGISTRATE JUDGE